



T-Mobile USA, Inc.
601 Pennsylvania Avenue, Washington, DC 20004

April 11, 2019

VIA ECFS

Marlene H. Dortch
Secretary
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

RE: WRITTEN EX PARTE PRESENTATION
WC Docket No. 10-90: Connect America Fund
WT Docket No. 10-208: Universal Service Reform – Mobility Fund

Dear Ms. Dortch,

The Rural Wireless Association's "informal request" objecting to T-Mobile's Mobility Fund Phase II coverage data is procedurally flawed, untimely and untrue.¹

Substantive filing requirements and deadlines are institutional policies intended to promote just results. While a regulatory body may choose to depart from its rules, agencies do so only in extraordinary circumstances because all parties benefit from the timely resolution of disputes based on reliable evidence. Addressing accusations based on untimely filed and inadmissible or irrelevant sources not only requires operators to expend resources addressing frivolous, poorly documented claims, but also diverts Commission resources from resolving legitimate challenges.

The FCC created a challenge process to enable interested parties to challenge and refine the MF-II coverage data to ensure finite universal service funding is targeted to areas without 4G LTE.² For example, the Commission created an online portal for submitting challenges to carriers' coverage data and carefully defined the types of data reliable enough to challenge coverage demonstrations, which can change based on an array of potential variables.³ RWA's informal

¹ See Rural Wireless Association, Inc. Informal Request for Commission Action, WC Docket No. 10-90 & WT Docket No. 10-208 (filed Dec. 26, 2018); see also *Ex Parte* Letter from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc. to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90, *et al.* (filed Feb. 13, 2019); *Ex Parte* Letter from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc. to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 & WT Docket No. 10-208 (filed Mar. 7, 2019).

² See generally *Universal Service Reform – Mobility Fund*, Order on Reconsideration and Second Report and Order, 32 FCC Rcd 6282 (2017) ("*MF-II Challenge Process Order*").

³ See *id.*; see also *Mobility Fund Phase II Challenge Process Handsets and Access Procedures for the Challenge Process Portal*, Public Notice, 32 FCC Rcd 10372 (RBATF Dec. 20, 2017). The FCC created these procedures in

request does not include actual outdoor speed test data RWA collected using the standardized parameters the FCC adopted for the MF-II challenge process and therefore does not comply with the FCC's requirements for the program.⁴ Nor does its request comply with the filing deadline the Commission established.⁵ RWA has failed to address, much less explain, its disregard for the agency's rules.⁶

T-Mobile stands by its MF-II 4G LTE coverage data and welcomes the opportunity to respond to certified MF-II challenges through the process the FCC has adopted for reviewing MF-II coverage data. In the meantime, T-Mobile asks the FCC to dismiss RWA's claims. As T-Mobile has explained previously, the Commission need not consider untimely, repetitive and frivolous petitions such as RWA's latest informal request.⁷

T-Mobile is filing an electronic copy of this *ex parte* letter in the above-referenced dockets under section 1.1206(b)(2) of the Commission's rules.

recognition that “requiring [FCC] staff to review thousands of challenges based on anecdotal claims is the antithesis of administrative efficiency.” *MF-II Challenge Process Order* ¶ 48 (quotation omitted).

⁴ See *MF-II Challenge Process Order* ¶ 47. The FCC has not released the names of the 21 entities who submitted challenges, but RWA likely did not submit a formal challenge through the portal based on its prior statements. See, e.g., *Ex Parte* Letter from Caressa D. Bennet, General Counsel, RWA to Marlene H. Dortch, Secretary, FCC, WT Docket No. 10-208, *et al.* at 2 (filed Dec. 10, 2018) (“RWA members provided meeting participants with an update on their MF-II Challenge Process efforts. Several RWA members completed MF-II Challenge Process speed tests and submitted their results ahead of the November 26, 2018 deadline.”). RWA presumably would have referenced its own MF-II challenge process efforts had the organization submitted a certified challenge by the deadline. RWA—an entity that is neither a governmental entity nor a service provider required to file Form 477 data—does not appear to have filed a waiver request to participate in the challenge process.

⁵ The FCC established a deadline of August 27, 2018 for the close of the MF-II challenge window and even extended the deadline by 90 days, until November 28, 2018. See *Connect America Fund; Universal Service Reform – Mobility Fund*, Order, Notice of Proposed Rulemaking, and Memorandum Opinion and Order, 33 FCC Rcd 8463 (2018). Despite the extension of time the FCC afforded potential challengers, RWA submitted its informal request nearly a month after the deadline. T-Mobile previously identified these and other serious shortcomings in RWA's challenges. See Letter from Cathleen A. Massey, Vice President, Federal Regulatory Affairs to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 & WT Docket No. 10-208 at 1-3 (filed Jan. 30, 2019).

⁶ RWA also concedes that the Vermont Department of Public Service (PSD) report does not comply with the drive testing requirements for an MF-II challenge. See *Ex Parte* Letter from Caressa D. Bennet, General Counsel, Rural Wireless Association, Inc. to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 & WT Docket No. 10-208 at 1 (filed Mar. 7, 2019). The PSD report explains that the agency “lacked time or budget to conduct a test thoroughly enough to meet the [FCC's] 75% [test area] threshold on a wide basis Ultimately, the PSD . . . determined that it would conduct a drive test of all major roads (roads that receive federal aid) even though only a portion of the transected blocks would reach the 75% threshold.” See Vermont Dep't of Public Service, *Mobile Wireless in Vermont* 1-2 (Jan. 15, 2019), <https://bit.ly/2SnfjH0> (last visited Apr. 2, 2019).

⁷ See *Ex Parte* Letter from Cathleen A. Massey, Vice President, Federal Regulatory Affairs to Marlene H. Dortch, Secretary, FCC, WC Docket No. 10-90 & WT Docket No. 10-208 at 6 n.26 (filed Feb. 26, 2019).

Respectfully submitted,

/s/ Cathleen A. Massey

Cathleen A. Massey
Vice President, Federal Regulatory Affairs

cc: Chairman Ajit Pai
Commissioner Michael O’Rielly
Commissioner Brendan Carr
Commissioner Jessica Rosenworcel
Commissioner Geoffrey Starks